



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Harry Meade et al.

Art Unit : 1633

Serial No. : 09/688,254

Examiner : Celine Qian

Filed : October 13, 2000

Title : METHOD OF PRODUCING A PROTEIN IN A TRANSGENIC ANIMAL

Commissioner for Patents

Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

For purposes of being responsive to the action mailed November 26, 2001, applicant elects the invention of Group I drawn to a transgenic system for purification of a target polypeptide and a method for producing said polypeptide, with traverse. Applicant traverses the restriction of claims 12-15 from Group I for the reasons set forth below and submit that these claims should be properly grouped with the claims 1-10 of Group I. The inventions of Group III and claim 11 are cancelled as directed to non-elected subject matter.

Applicant respectfully traverses the restriction under 35 U.S.C. § 121 to the extent that claims 12-15 have been restricted from the invention of Group I.

The Examiner asserts that "the method of producing a polypeptide using the transgenic systems of Group I involves different steps than the method of Group II. Thus, the inventions of Group I are patentably distinct from the inventions of Group II." However, this is simply not the case. Claims 5-10 are directed to a method of obtaining a target polypeptide having a bindable epitope from a product. The method includes contacting the product with a multivalent binding polypeptide having a first binding moiety which binds the bindable epitope

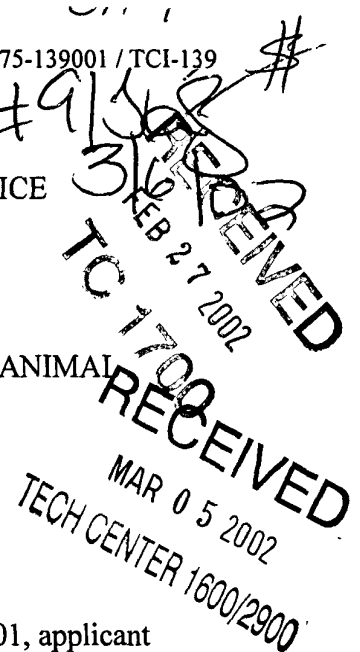
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and a second binding moiety which binds a matrix, to form a reaction mixture, contacting the reaction mixture with a matrix specific for the second binding moiety, and removing the reaction mixture which does not bind the matrix. Claims 12-15 are also directed to a method of obtaining a target polypeptide having a bindable epitope from a product. The methods include the same steps as recited above, i.e., the method includes contacting the product with a multivalent binding polypeptide having a first binding moiety which binds the bindable epitope and a second binding moiety which binds a matrix, to form a reaction mixture, contacting the reaction mixture with a matrix specific for the second binding moiety, and removing the reaction mixture which does not bind the matrix. The only difference between, for example, claim 5 and claim 12 is that claim 12 recites that the product from which the target polypeptide is obtained is milk.

It is hard to rationalize, for example, that claim 7 (which the Examiner asserts belongs in Group I) is "patentably distinct" from claim 12 (which the Examiner asserts belongs to Group II). Applicants realized when reviewing the claims that these two claims are directed to identical subject matter. Thus, they are clearly not directed to "separate" and "distinct" inventions, and therefore should not be subjected to a restriction requirement. Accordingly, Applicants believe the restriction requirement under 35 U.S.C. §121 to be improper.

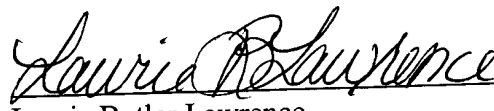
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Respectfully submitted,

Date: 1/23/02


Laurie Butler Lawrence
Reg. No. 46,593

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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